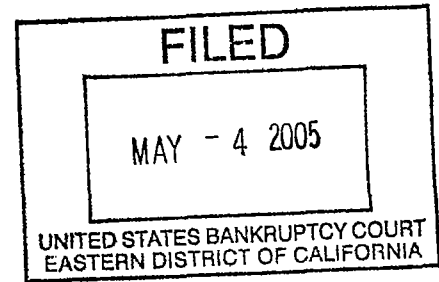


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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re	)	Case No. 04-34414-C-7
	)	
MERLE D. TOLAND and	)	DC No. DBJ-02
TAMMY TOLAND,	)	
	)	
Debtors.	)	

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
ON MOTION TO AVOID LIEN**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014. Evidence was taken pursuant to Federal Rule of Civil Procedure 43(e), as incorporated by Federal Rule of Bankruptcy Procedure 9017 and as invoked by Local Bankruptcy Rule 9014(e).

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(K).

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Findings of Fact

On April 4, 2005, debtors filed a motion, notice, and certificate of service requesting that this court avoid a judgment lien in favor of Citibank South Dakota, N.A. The lien attaches to the debtors' residence commonly known as 988 Bella Vista Avenue, Paradise, California, ("the property"). A hearing was scheduled for May 3, 2005 to consider the motion. Upon review of the record, the court determined that the written record was adequate and that no oral argument was necessary.

In reviewing debtors' certificate of service, the court observes that debtor served Citibank South Dakota, N.A. at the following two addresses: Patenaude & Felis, A.P.C., 4545 Murphy Canyon Road, 3<sup>rd</sup> Floor, San Diego, CA 92123 and Citibank South Dakota, N.A., P.O. Box 769004, San Antonio, TX 78245-9004.

Conclusions of Law

Federal Rule of Bankruptcy Procedure 7004(b)(3) provides in pertinent part:

Except as provided in subdivision(h), in addition-to the methods of service authorized by Rule 4(e)-(j) F.R.Civ.P., service may be made within the United States by first class postage prepaid as follows... Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy of the defendant.

1 Fed. R. Bank. P. 7004(b)(3).

2 Here, debtors' service of motion does not comply with  
3 the requirement to serve the motion to the attention of an  
4 officer or other agent authorized as provided in Rule  
5 7004(b)(3). Beneficial California, Inc. v. Villar (In re  
6 Villar), 317 B.R. 88, 93 (9<sup>th</sup> Cir. BAP 2004). The court  
7 notes that a corporation's agent for service of process may  
8 be obtained by visiting the California Secretary of State  
9 website at www.ss.ca.gov. The website contains a link to  
10 the "California Business Portal" which provides an online  
11 service titled "California Business Search." Therein,  
12 corporation information, including the agent for service of  
13 process, may be obtained by entering the corporation's name  
14 in the search engine.

15 The motion will therefore be denied without prejudice.

16 An appropriate order will issue.

17 Dated: May 3, 2005

18   
19  
20 UNITED STATES BANKRUPTCY JUDGE  
21  
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**CERTIFICATE OF SERVICE**

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Merle D. Toland  
988 Bella Vista Avenue  
Paradise, CA 95969

Tammy Toland  
988 Bella Vista Avenue  
Paradise, CA 95969

Michael Dacquisto  
P.O. Box 992631  
Redding, CA 96099-2631

Citibank South Dakota, N.A.  
c/o Patenaude & Felis, A.P.C.  
4545 Murphy Canyon Road, 3<sup>rd</sup> Floor  
San Diego, CA 92123

Citibank South Dakota, N.A.  
P.O. Box 769004  
San Antonio, TX 78245-9004

Office of the United States Trustee  
United States Courthouse  
501 "I" Street, Suite 7-500  
Sacramento, CA 95814

Dated: 5/5/05

  
Deputy Clerk

**BARBARA REYNOLDS**